

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DAVID P. FONTAINE,)	
Plaintiff)	
)	
v.)	CIVIL ACTION NO. 04-30080-MAP
)	
UNITED STATES GOVERNMENT,)	
ET AL,)	
Defendants)	

MEMORANDUM AND ORDER REGARDING
PLAINTIFF'S MOTION FOR RECONSIDERATION
(Docket No. 32)

September 21, 2005

PONSOR, U.S.D.J.

On July 22, 2004, Magistrate Judge Neiman issued his Report and Recommendation to the effect that all counts in this case be dismissed. On August 20, 2004, the court adopted this Report and Recommendation, upon de novo review. Judgment entered on the same day.

It now appears that on or about September 15, 2004 the pro se plaintiff filed what the court has construed as a Motion for Reconsideration of dismissal of the action. See Docket No. 32. The plaintiff claimed that he had not received a copy of the Report and Recommendation and that he had therefore failed to object to it. Apparently, the plaintiff did receive a copy of this court's Memorandum adopting the Report and Recommendation. The plaintiff also objected to the court's characterization of the issues

raised by the complaint.

The plaintiff's motion was overlooked for approximately one year, and the court will address it now. In adopting the Magistrate Judge's Report and Recommendation on August 20, 2004, the court indicated its agreement with the Magistrate Judge's substantive analysis and did not rely solely on the plaintiff's failure to object to the Recommendation. The court has now considered the arguments presented in essence by the plaintiff in his Motion for Reconsideration, specifically his argument that "federal and state income taxes are indirect taxes, which apply to privileged activities" The court finds this argument unconvincing and hereby orders the Motion for Reconsideration DENIED.

In order to insure that the plaintiff has full rights of appeal, the court orders the clerk to re-enter judgment as of this date, so that the plaintiff will have the opportunity to file his appeal with the First Circuit Court of Appeals in accordance with the normal timetable if he wishes.

It is So Ordered.

/s/Michael A. Ponsor
MICHAEL A. PONSOR
U. S. District Judge